

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JEMAINIE JONES,

Plaintiff,

v.

RICHARD MONYER,

Defendant.

CIVIL ACTION

FILE NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332 and 1441, Richard Monyer (“Mr. Monyer”) removes the above-captioned lawsuit from the State Court of Dekalb County, Georgia, Civil Action Number 22A02872, in which it is currently pending, to the United States District Court for the Northern District of Georgia, Atlanta Division. As grounds for the removal of this lawsuit, Mr. Monyer states as follows:

1. On August 1, 2022, Plaintiff Jemaine Jones (“Plaintiff”) filed the above-captioned lawsuit in the State Court of Dekalb County, Georgia.

2. On March 28, 2023, Mr. Monyer was served with a copy of the Complaint.

3. As Mr. Monyer was served on March 28, 2023, this Notice of Removal is filed in a timely and proper manner pursuant to 28 U.S.C. § 1446(b), as it is being

filed within thirty (30) days of Mr. Monyer being served with this lawsuit.

4. This lawsuit is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and may be removed to the Court under 28 U.S.C. §§ 1441 and 1446.

5. This lawsuit is a civil action in which, upon Defendant's information and belief, the amount in controversy exceeds \$75,000, exclusive of interest and costs, and is an action between citizens of different states.

6. All pleadings in the Dekalb County State Court action are attached hereto as **Exhibit A**.

7. Upon information and belief, Plaintiff is an individual residing in the State of Georgia. )

8. Mr. Monyer is and was at the time of the filing an individual residing in the State of Texas. (Ex. A, Compl. ¶ 1).

9. Accordingly, there is complete diversity of citizenship between all parties in accordance with 28 U.S.C. § 1332.

10. Upon information and belief, the amount of controversy in this matter exceeds \$75,000. Plaintiff did not request a sum certain in his Complaint related to his claims. However, "[c]omplaints alleging serious, lasting physical injuries are typically removable because it is facially apparent that these claims are worth more

than \$75,000.” *Hickerson v. Enter. Leasing Co. of Ga., LLC*, 818 F. App’x 880, 883 (11th Cir. 2020). Plaintiff’s Complaint alleges that he “has suffered injuries” and he “will incur future medical expenses for treatment of those injuries.” (Ex. A, Compl. ¶ 9). Plaintiff specifically alleges medical damages in excess of \$140,800.00. (Ex. A, Compl. ¶ 8).

11. Considering Plaintiff’s alleged medical expenses, the Court should find that Plaintiff’s Complaint satisfies the amount in controversy requirements of 28 U.S.C. § 1332. *See Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1061-62 (11th Cir. 2010) (courts may use judicial experience and make reasonable extrapolations in assessing amount in controversy).

12. Accordingly, under 28 U.S.C. §1446(C)(2), the amount in controversy exceeds the amount specified in 28 U.S.C. § 1332(a). Therefore, pursuant to 28 U.S.C. §1446(C)(2), the Court should find, by a preponderance of the evidence, that the amount in controversy in this lawsuit exceeds the amount specified in 28 U.S.C. § 1332(b).

13. A true and correct copy of this Notice of Removal is being filed with the Clerk of the State Court of Dekalb County and has been served upon Plaintiff. (*See*, Notice of Removal, attached hereto as **Exhibit B**).

14. The undersigned has read this Notice of Removal and, to the best of her

knowledge, information, and belief, affirms that it is well-grounded in fact and warranted by existing law.

**WHEREFORE**, Defendant Richard Monyer prays that this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 27th day of April, 2023.

THOMPSON HINE LLP

/s/ Jenna S. Schneider

Sean Gordon

Georgia Bar No. 777350

Jenna S. Schneider

Georgia Bar No. 404596

Two Alliance Center

3560 Lenox Road NE, Suite 1600

Atlanta, Georgia 30326-4266

Tel: (404) 541-2900

Fax: (404) 541-2905

[sean.gordon@thompsonhine.com](mailto:sean.gordon@thompsonhine.com)

[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

*Counsel for Defendant Richard Monyer*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this date served a copy of the foregoing *Notice of Removal* with the Clerk of Court via the Court's electronic filing system, which will automatically send email notification of such filing to all attorneys of record, including:

Stephan D. Apolinsky, Esq.  
Jude L. Graham, Esq.  
**APOLINSKY & ASSOCIATES, LLC**  
One Decatur Town Center  
Suite 200  
150 East Ponce De Leon Avenue  
Decatur, Georgia 30030  
[steve@aa-legal.com](mailto:steve@aa-legal.com)  
[jude@aa-legal.com](mailto:jude@aa-legal.com)

This 27th day of April, 2023.

*(Signature on Following Page)*

THOMPSON HINE LLP

/s/ Jenna S. Schneider

Jenna S. Schneider  
Georgia Bar No. 404596

*Counsel for Defendant  
Richard Monyer*

Two Alliance Center  
3560 Lenox Road, Suite 1600  
Atlanta, Georgia 30326  
404.541.2974  
[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

**CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1 It is prepared in Times New Roman 14-point font with top margins of not less than one and one-half (1 1/2 ) inches and a left margin of not less than one (1) inch.

This 27th day of April, 2023.

THOMPSON HINE LLP

/s/ Jenna S. Schneider

Jenna S. Schneider  
Georgia Bar No. 404596

*Counsel for Defendant  
Richard Monyer*

Two Alliance Center  
3560 Lenox Road, Suite 1600  
Atlanta, Georgia 30326  
404.541.2974  
[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

**EXHIBIT A**



## General Civil and Domestic Relations Case Filing Information Form

☐ Superior or ☒ State Court of DeKalb County

For Clerk Use Only	8/1/2022	22A02872
Date Filed	MM-DD-YYYY	Case Number

## Plaintiff(s)

Jones, Jemaine

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

## Defendant(s)

Monyer, Richard

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Last First Middle I. Suffix Prefix

Plaintiff's Attorney Stephen D. Apolinsky Bar Number 020915 Self-Represented ☐

## Check One Case Type in One Box

General Civil Cases	
<input checked="" type="checkbox"/>	Automobile Tort
<input type="checkbox"/>	Civil Appeal
<input type="checkbox"/>	Contract
<input type="checkbox"/>	Garnishment
<input type="checkbox"/>	General Tort
<input type="checkbox"/>	Habeas Corpus
<input type="checkbox"/>	Injunction/Mandamus/Other Writ
<input type="checkbox"/>	Landlord/Tenant
<input type="checkbox"/>	Medical Malpractice Tort
<input type="checkbox"/>	Product Liability Tort
<input type="checkbox"/>	Real Property
<input type="checkbox"/>	Restraining Petition
<input type="checkbox"/>	Other General Civil

Domestic Relations Cases	
<input type="checkbox"/>	Adoption
<input type="checkbox"/>	Dissolution/Divorce/Separate Maintenance
<input type="checkbox"/>	Family Violence Petition
<input type="checkbox"/>	Paternity/Legitimation
<input type="checkbox"/>	Support - IV-D
<input type="checkbox"/>	Support - Private (non-IV-D)
<input type="checkbox"/>	Other Domestic Relations

Post-Judgment - Check One Case Type	
<input type="checkbox"/>	Contempt
<input type="checkbox"/>	Non-payment of child support, medical support, or alimony
<input type="checkbox"/>	Modification
<input type="checkbox"/>	Other/Administrative

- ☐ Check if the action is related to another action(s) pending or previously pending in this court involving some or all of the same parties, subject matter, or factual issues. If so, provide a case number for each.

Case Number

Case Number

- ☒ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in O.C.G.A. § 9-11-7.1.

- ☐ Is an interpreter needed in this case? If so, provide the language(s) required. Language(s) Required

- ☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.

Version 1.1.18

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

JEMAIN JONES,

Plaintiff,

V.

RICHARD MONYER

Defendant.

CIVIL ACTION  
FILE NO. 22A02872

## COMPLAINT FOR DAMAGES

COMES NOW Jemaine Jones, Plaintiff in the above-styled civil action, by and through his counsel of record and files his Complaint for Damages and shows the Court as follows:-

1.

Defendant Richard Monyer (hereinafter “Defendant Monyer”) is a resident of Hutto, Texas. Defendant Monyer will be subject to the jurisdiction and venue of this Court pursuant to O.C.G.A. §§ 9-10-91(2); 9-10-93, as the car collision that forms the basis of the present action occurred in DeKalb County, Georgia.

2.

On or about September 4, 2020, Plaintiff Jemaine Jones (hereinafter “Plaintiff Jones”) was driving westbound on Memorial Drive near its intersection with Goldsmith Road.

3.

On the same date at the same time, Defendant Monyer, who was working for DoorDash and on a delivery at the time, was facing eastbound and attempting to turn left from Memorial Drive onto Goldsmith Road.

4.

Plaintiff Jones had a green traffic light and proceeded to drive through the intersection.

5.

Defendant Monyer turned left as Plaintiff Jones was in the middle of the intersection, which caused Defendant Monyer's vehicle to strike Plaintiff Jones' vehicle nearly head-on.

6.

Defendant Monyer owed Plaintiff Jones a duty to operate his vehicle in a safe manner.

7.

Defendant Monyer breached his duty in at least the following ways:

- (a) Failing to yield while turning left;
- (b) Failing to keep a proper look-out for approaching vehicles; and
- (c) Was generally negligent in the operation of his vehicle.

8.

As a direct and proximate result of Defendant Monyer's negligent acts, Plaintiff Jones suffered injuries and incurred medical expenses for treatment of those injuries in an amount exceeding \$140,800.00 with the exact amount to be proven at trial.

9.

As a direct and proximate result of Defendant Monyer's negligent acts, Plaintiff Jones suffered injuries and will incur future medical expenses for treatment of those injuries.

10.

As a direct and proximate result of Defendant Monyer's negligent acts, Plaintiff Jones lost wages due to his inability to work.

11.

As a direct and proximate result of Defendant Monyers' negligent acts, Plaintiff will suffer a loss of future earnings.

12.

As a direct and proximate result of Defendant Monyers' negligent acts, Plaintiff Jones endured pain and suffering.

WHEREFORE, Plaintiff Jones prays:

- (a) That Summons issue and Defendant Monyer be required to answer by law;
- (b) That a jury be empaneled to hear the trial of the case;
- (c) That Plaintiff Jones have and recover all special damages as he proves at trial;
- (d) That plaintiff have and recover all non-economic damages as determined by the enlightened conscious of impartial jurors;
- (e) That all costs of this action be cast against Defendant Monyer; and
- (f) Such other relief as the Court deems just and proper.

This 1<sup>st</sup> day of August, 2022

APOLINSKY & ASSOCIATES, LLC

/s/ Stephen D. Apolinsky  
STEPHEN D. APOLINSKY  
Georgia Bar No. 020915  
JUDE L. GRAHAM  
Georgia Bar No. 558363

One Decatur Town Center, Suite 200  
150 East Ponce de Leon Avenue  
Decatur, Georgia 30030  
(404) 377-9191  
Fax: (404) 377-6996  
steve@aa-legal.com  
jude@aa-legal.com

STATE COURT OF  
DEKALB COUNTY, GA.  
8/1/2022 3:05 PM  
E-FILED  
BY: Michelle Cheek

22A02872

No. \_\_\_\_\_

STATE COURT OF DEKALB COUNTY  
GEORGIA, DEKALB COUNTY

Date Summons Issued and E-Filed

8/1/2022

## SUMMONS

/s/ Michelle Cheek

Deputy Clerk

Deposit Paid \$ \_\_\_\_\_

Jemaine Jones

150 E. Ponce de Leon Ave. Suite 200, Decatur, GA 30030

Plaintiff's name and address

vs.

[ ] JURY

Richard Monyer

803 Farm House Drive, Hutto, TX 78634-2104

Defendant's name and address

## TO THE ABOVE-NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of State Court, Suite 230, 2nd Floor, Administrative Tower, DeKalb County Courthouse, 556 N. McDonough Street, Decatur, Georgia 30030 and serve upon the plaintiff's attorney, to wit:

Stephen D. Apolinsky

Name

150 E. Ponce de Leon Avenue, Suite 200, Decatur, GA 30030

Address

404-377-9191

020915

Phone Number

Georgia Bar No.

an **ANSWER** to the complaint which is herewith served upon you, within thirty (30) days after service upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. The answer or other responsive pleading can be filed via electronic filing through eFileGA via [www.eFileGA.com](http://www.eFileGA.com) or, if desired, at the e-filing public access terminal in the Clerk's Office at 556 N. McDonough Street, Decatur, Georgia 30030

Defendant's Attorney

Third Party Attorney

Address

Address

Phone No.

Georgia Bar No.

Phone No.

Georgia Bar No.

## TYPE OF SUIT

- ☒ Personal Injury ☐ Products Liability  
☐ Contract ☐ Medical Malpractice  
☐ Legal Malpractice ☐ Product Liability  
☐ Other

Principal \$ \_\_\_\_\_

Interest \$ \_\_\_\_\_

Atty Fees \$ \_\_\_\_\_

Access to the e-filing site and the rules is available at [www.dekalbstatecourt.net](http://www.dekalbstatecourt.net)

To indicate consent to e-service check the box below.

☒ (Plaintiff consents to e-service pursuant to OCGA 9-11-5 (f). The email address for service appears in the complaint.

E-file summons1-2016

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

JEMAIN JONES,	)	
	)	CIVIL ACTION
Plaintiff,	)	FILE NO. <u>22A02872</u>
	)	
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**RULE 5.2 CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of PLAINTIFF'S FIRST INTERROGATORIES, REQUEST FOR ADMISSIONS AND REQUEST FOR PRODUCTION TO DEFENDANT RICHARD MONYER upon all parties of record by sending said copy via process server:

Richard Monyer  
803 Farm House Drive  
Hutto, Texas 78634-2104

This 1<sup>st</sup> day of August, 2022.

APOLINSKY & ASSOCIATES, LLC

/s/ Stephen D. Apolinsky  
STEPHEN D. APOLINSKY  
Georgia Bar No. 020915  
JUDE L. GRAHAM  
Georgia Bar No. 558363  
*Attorneys for Plaintiff*

One Decatur Town Center, Suite 200  
150 East Ponce de Leon Avenue  
Decatur, Georgia 30030  
(404) 377-9191  
steve@aa-legal.com  
jude@aa-legal.com

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

JEMAIN JONES,	)	
	)	CIVIL ACTION
Plaintiff,	)	FILE NO. <u>22A02872</u>
	)	
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served a copy of the within and foregoing  
PLAINTIFF'S FIRST INTERROGATORIES, REQUEST FOR ADMISSIONS AND  
REQUEST FOR PRODUCTION TO DEFENDANT RICHARD MONYER upon the following  
via a process server:

Richard Monyer  
803 Farm House Drive  
Hutto, Texas 78634-2104

This the 1<sup>st</sup> day of August, 2022.

APOLINSKY & ASSOCIATES, LLC

/s/ Stephen D. Apolinsky  
STEPHEN D. APOLINSKY  
Georgia Bar No. 020915  
JUDE L. GRAHAM  
Georgia Bar No. 558363  
*Attorneys for Plaintiff*

One Decatur Town Center, Suite 200  
150 E. Ponce de Leon Avenue  
Decatur, Georgia 30030  
Telephone: (404) 377-9191  
Fax: (404) 377-6996  
steve@aa-legal.com  
jude@aa-legal.com

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,	)	
	)	CIVIL ACTION
Plaintiff,	)	FILE NO. <u>22A02872</u>
	)	
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**MOTION FOR APPOINTMENT OF SPECIAL AGENT FOR SERVICE**

COMES NOW, Jemaine Jones, Plaintiff in the above-styled civil action, and, pursuant to O.C.G.A. § 9-11-4(c), respectfully requests that this Court appoint Luis J. Perez as a private process server in the above-styled civil action to serve a copy of the Summons and Complaint for Damages in this case upon the named Defendant and states as follows:

1.

Plaintiff shows that the appointment of a special agent for service is necessary to expedite the perfection of service upon Defendant.

2.

Plaintiff shows that Luis J. Perez is a citizen of the United States.

3.

Plaintiff shows that Luis J. Perez is not a party to this action.

4.

Plaintiff shows that Luis J. Perez is a disinterested person, over the age of eighteen (18) years, and free from bias and acrimony of feelings with respect to this action.



WHEREFORE, Plaintiff respectfully requests that this Court appoint Luis J. Perez as a special agent for service in this case.

Respectfully submitted this 9<sup>th</sup> day of August 2022.

APOLINSKY & ASSOCIATES, LLC

/s/ Stephen D. Apolinsky  
STEPHEN D. APOLINSKY  
Georgia Bar No. 020915  
JUDE L. GRAHAM  
Georgia Bar No. 558363  
*Attorneys for Plaintiff*

APOLINSKY & ASSOCIATES, L.L.C.  
One Decatur Town Center, Suite 200  
150 East Ponce de Leon Avenue  
Decatur, Georgia 30030  
Telephone: (404) 377-9191

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,

Plaintiff,

v.

RICHARD MONYER

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)

CIVIL ACTION

FILE NO. 22A02872

**ORDER APPOINTING SPECIAL AGENT FOR SERVICE**

The Motion for appointment having been read and considered and it appearing to the Court that sufficient grounds exist for the granting thereof, it is hereby

ORDERED that LUIS J. PEREZ, a citizen of the United States is hereby specially appointed by this Court to serve process and the said LUIS J. PEREZ is hereby authorized to personally serve the Defendant with a copy of the Summons and Complaint in this action.

SO ORDERED, this the 31st day of August, 2022.



\_\_\_\_\_  
JUDGE Kimberly K. Anderson  
STATE COURT OF DEKALB COUNTY

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

JEMAIN JONES,

Plaintiff,

V.

RICHARD MONYER

Defendant.

CIVIL ACTION  
FILE NO. 22A02872

**AFFIDAVIT IN SUPPORT OF MOTION FOR**  
**APPOINTMENT OF SPECIAL AGENT FOR SERVICE**

COMES NOW, James Henderson before the undersigned officer duly authorized to administer oaths, and after being sworn on oath deposes and says:

1.

I am more than eighteen (18) years of age and suffering under no legal disabilities. I am otherwise competent to testify, am not a party hereto, and if called to testify, would testify to the facts herein. This Affidavit is based upon personal knowledge.

2.

I am over the age of eighteen (18) and a citizen of the United States.

3.

I am not a party to the above-styled civil action, nor am I employed by or related to any of the parties to this action.

Affiant further sayeth naught.

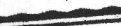
JAMES HENDERSON

Sworn and subscribed before  
me this 21 day of Sept, 2022.

STATE COURT OF  
DEKALB COUNTY, GA.

**PM** commission expires:

7-1-2024



SUZANNA VEGA  
Notary Public, State of Texas  
Comm. Expires 07-01-2024  
Notary ID 132549125

9/21/2022 3:19 PM  
E-FILED  
BY: Kelly Johnson

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,	)	
	)	CIVIL ACTION
Plaintiff,	)	FILE NO. <u>22A02872</u>
	)	
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**MOTION FOR APPOINTMENT OF SPECIAL AGENT FOR SERVICE**

COMES NOW, Jemaine Jones, Plaintiff in the above-styled civil action, and, pursuant to O.C.G.A. § 9-11-4(c), respectfully requests that this Court appoint James Henderson as a private process server in the above-styled civil action to serve a copy of the Summons and Complaint for Damages in this case upon the named Defendant and states as follows:

1.

Plaintiff shows that the appointment of a special agent for service is necessary to expedite the perfection of service upon Defendant.

2.

Plaintiff shows that James Henderson is a citizen of the United States.

3.

Plaintiff shows that James Henderson is not a party to this action.

4.

Plaintiff shows that James Henderson is a disinterested person, over the age of eighteen (18) years, and free from bias and acrimony of feelings with respect to this action.

WHEREFORE, Plaintiff respectfully requests that this Court appoint James Henderson as a special agent for service in this case.

Respectfully submitted this 21<sup>st</sup> day of September 2022.

APOLINSKY & ASSOCIATES, LLC

/s/ Stephen D. Apolinsky  
STEPHEN D. APOLINSKY  
Georgia Bar No. 020915  
JUDE L. GRAHAM  
Georgia Bar No. 558363  
*Attorneys for Plaintiff*

APOLINSKY & ASSOCIATES, L.L.C.  
One Decatur Town Center, Suite 200  
150 East Ponce de Leon Avenue  
Decatur, Georgia 30030  
Telephone: (404) 377-9191

STATE COURT OF  
DEKALB COUNTY, GA.  
9/21/2022 3:19 PM  
E-FILED  
BY: Kelly Johnson

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	FILE NO. <u>22A02872</u>
	)	
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**ORDER APPOINTING SPECIAL AGENT FOR SERVICE**

The Motion for appointment having been read and considered and it appearing to the Court that sufficient grounds exist for the granting thereof, it is hereby

ORDERED that James Henderson, a citizen of the United States is hereby specially appointed by this Court to serve process and the said JAMES HENDERSON is hereby authorized to personally serve the Defendant with a copy of the Summons and Complaint in this action.

SO ORDERED, this the 29th day of September, 2022.



\_\_\_\_\_  
JUDGE  
STATE COURT OF DEKALB COUNTY

STATE COURT OF  
DEKALB COUNTY, GA.  
9/21/2022 3:19 PM  
E-FILED  
BY: Kelly Johnson

STATE COURT OF  
DEKALB COUNTY, GA.  
9/30/2022 10:31 AM  
E-FILED  
BY: Monique Roberts

IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA

ORDER OF INSTRUCTIONS FOR DIVISION II  
CIVIL STATUS CALENDAR

**CIVIL ACTION FILE NO. 22A02872**

The Court is scheduling the following actions for a status conference for the parties to provide a status update on the case. The conference will be held virtually on **March 28th, 2023 at 9:00a.m.** The Zoom link will be emailed to the parties the week of the conference.

In lieu of appearing, the parties may contact the civil case manager, Wendy Videki, via email at [wvideki@dekalbcountyga.gov](mailto:wvideki@dekalbcountyga.gov) no later than 24 hours before the hearing to provide a status update on the case.

Failure of the Plaintiff to comply with the Court's direction may result in the complaint being dismissed without prejudice. Failure of the Defendant to comply with the Court's direction may result in any counterclaim/crossclaim/third party claim being dismissed.

No continuances will be granted except on prior order of the court for legal cause shown. All conflicts shall be handled as required by Georgia Uniform Court Rule 17.1.

If any party objects to proceeding with a virtual hearing rather than in person, they shall file a written objection no later than 72 hours before the hearing. A party that does not object in writing shall be deemed to have consented to this virtual conference.

For any information regarding this calendar, please contact Ms. Videki.

**SO ORDERED**, this 13th day of February 2023.



Kimberly K. Anderson, Judge  
State Court of DeKalb County

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	FILE NO. <u>22A02872</u>
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**MOTION FOR APPOINTMENT OF SPECIAL AGENT FOR SERVICE**

COMES NOW, Jemaine Jones, Plaintiff in the above-styled civil action, and, pursuant to O.C.G.A. § 9-11-4(c), respectfully requests that this Court appoint Joe Horton as a private process server in the above-styled civil action to serve a copy of the Summons, Complaint for Damages, Interrogatories, Request to Produce and Request for Admissions in this case upon the named Defendant and states as follows:

1.

Plaintiff shows that the appointment of a special agent for service is necessary to expedite the perfection of service upon Defendant.

2.

Plaintiff shows that Joe Horton is a citizen of the United States.

3.

Plaintiff shows that Joe Horton is not a party to this action.

4.

Plaintiff shows that Joe Horton is a disinterested person, over the age of eighteen (18) years, and free from bias and acrimony of feelings with respect to this action.



WHEREFORE, Plaintiff respectfully requests that this Court appoint Joe Horton as a special agent for service in this case.

Respectfully submitted this 20<sup>th</sup> day of March, 2023.

APOLINSKY & ASSOCIATES, LLC

/s/ Jude L. Graham  
STEPHEN D. APOLINSKY  
Georgia Bar No. 020915  
JUDE L. GRAHAM  
Georgia Bar No. 558363  
*Attorneys for Plaintiff*

APOLINSKY & ASSOCIATES, L.L.C.  
One Decatur Town Center, Suite 200  
150 East Ponce de Leon Avenue  
Decatur, Georgia 30030  
Telephone: (404) 377-9191

STATE COURT OF  
DEKALB COUNTY, GA.  
3/21/2023 10:11 AM  
E-FILED  
BY: Patricia Nesbitt

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	FILE NO.
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**ORDER APPOINTING SPECIAL AGENT FOR SERVICE**

The Motion for appointment having been read and considered and it appearing to the Court that sufficient grounds exist for the granting thereof, it is hereby

ORDERED that JOE HORTON, a citizen of the United States is hereby specially appointed by this Court to serve process and the said JOE HORTON is hereby authorized to personally serve the Defendant with a copy of the Summons and Complaint, Interrogatories, Request to Produce and Request for Admissions in this action.

SO ORDERED, this the 27th day of March, 2023.



\_\_\_\_\_  
THE HONORABLE KIMBERLY ANDERSON  
JUDGE, DEKALB COUNTY STATE COURT

STATE COURT OF  
DEKALB COUNTY, GA.  
3/21/2023 10:11 AM  
E-FILED

STATE COURT OF  
DEKALB COUNTY, GA.  
3/27/2023 4:05 PM  
E-FILED  
BY: Patricia Nesbitt

BY: Patricia Nesbitt

## AFFIDAVIT OF SERVICE

Case: 22A02872	Court: State Court of Dekalb County, State of Georgia	County: Dekalb	Job: 8571952
Plaintiff / Petitioner: JEMAIN JONES		Defendant / Respondent: RICHARD MONYER	
Received by: Judiciary Process Servers		For: Apolinsky & Associates, LLC	
To be served upon: RICHARD MONYER, IV			

I, Joe Horton, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

**Recipient Name / Address:** RICHARD MONYER, IV, Fort George G. Meade Defense Information School (DINFOS): 6500 Mapes Rd, Fort Meade, MD 20755

**Manner of Service:** Personal/Individual, Mar 28, 2023, 10:55 am EDT

**Documents:** Complaint for Damages; Summons Issued August 1, 2022; Order Appointing Special Agent for Service; Plaintiff's First Interrogatories to Defendant Richard Monyer; Plaintiff's First Request for Production of Documents to Defendant Richard Monyer; Plaintiff's First Request for Admissions to Defendant Richard Monyer;

**Additional Comments:**

1) Successful Attempt: Mar 28, 2023, 10:55 am EDT at Fort George G. Meade Defense Information School (DINFOS): 6500 Mapes Rd, Fort Meade, MD 20755 received by RICHARD MONYER, IV. Age: 25-30; Ethnicity: African American; Gender: Male; Weight: 185; Height: 5'10"; Hair: Black; Eyes: Brown; Other: DOB: 08/12/1993;

Served all documents on individual who confirmed his identity and stated that his date of birth was 08/12/1993.

GPS Coordinates: 39.09790, -76.75071



Joe Horton

March 28, 2023

Date

*Subscribed and sworn to before me by the affiant who is personally known to me.*



/ Philip Eugene Welborn

Notary Public

March 28, 2023

April 19, 2023

Date

Commission Expires

Judiciary Process Servers  
8482 Fort Smallwood Road, B-110  
Pasadena, Maryland 21122

**PHILIP EUGENE WELBORN**  
Notary Public  
Anne Arundel County  
Maryland  
My Commission Expires April 19, 2023



**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	FILE NO. <u>22A02872</u>
	)	
v.	)	
	)	
RICHARD MONYER	)	
	)	
Defendant.	)	

**ORDER APPOINTING SPECIAL AGENT FOR SERVICE**

The Motion for appointment having been read and considered and it appearing to the Court that sufficient grounds exist for the granting thereof, it is hereby

ORDERED that James Henderson, a citizen of the United States is hereby specially appointed by this Court to serve process and the said JAMES HENDERSON is hereby authorized to personally serve the Defendant with a copy of the Summons and Complaint in this action.

SO ORDERED, this the 29th day of September, 2022.



\_\_\_\_\_  
JUDGE  
STATE COURT OF DEKALB COUNTY

STATE COURT OF  
DEKALB COUNTY, GA.  
9/21/2022 3:19 PM  
E-FILED  
BY: Kelly Johnson

STATE COURT OF  
DEKALB COUNTY, GA.  
9/30/2022 10:31 AM  
E-FILED  
BY: Monique Roberts

**IN THE STATE COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,

Plaintiff,

v.

RICHARD MONYER,

Defendant.

CIVIL ACTION FILE NO.  
22A02872

**DEFENDANT RICHARD MONYER’S ANSWER  
TO PLAINTIFF’S COMPLAINT FOR DAMAGES**

Defendant Richard Monyer (“Defendant” or “Monyer”), by and through his counsel of record, Thompson Hine LLP, hereby files his Answer and asserts affirmative defenses to Plaintiff Jemaine Jones’ (“Plaintiff”) Complaint in the above-captioned matter (the “Complaint”).<sup>1</sup> In response to the enumerated allegations of the Complaint, Monyer denies each and every allegation except as expressly admitted as follows:

**FIRST DEFENSE**

Plaintiff’s damages, if any, were caused by Plaintiff’s own contributory/comparative negligence.

**SECOND DEFENSE**

Plaintiff’s damages, if any, were caused by Plaintiff’s voluntary assumption of risk.

**THIRD DEFENSE**

Plaintiff’s damages, if any, were caused and/or contributed to by the negligence or fault of other parties over whom Monyer had neither control nor right of control.

---

<sup>1</sup> Capitalized but undefined terms used herein shall have the meanings given to such terms in the Complaint.

**FOURTH DEFENSE**

Plaintiff's damages, if any, are the result of intervening and/or superseding causes beyond Monyer's control.

**FIFTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, by Plaintiff's unforeseeable misuse of the subject vehicle.

**SIXTH DEFENSE**

Plaintiff's damages, if any, are attributable to persons or entities from whom Plaintiff does not seek recovery in this action.

**SEVENTH DEFENSE**

Plaintiff's damages, if any, were caused by Plaintiff's failure to mitigate those damages.

**EIGHTH DEFENSE**

There is no causal relationship between any alleged acts and/or omissions on the part of Monyer and Plaintiff's alleged injuries and damages.

**NINTH DEFENSE**

Plaintiff's damages, if any, were pre-existing and are not attributable to any act, conduct, or omission on the part of Defendant.

**TENTH DEFENSE**

Monyer hereby asserts and preserves any and all defenses under O.C.G.A. § 9-11-12 to the extent not stated in a previous defense.

**ELEVENTH DEFENSE**

Monyer hereby gives notice that he intends to rely upon such other and further defenses as may become available during discovery in this action and reserves the right to amend this respective Answer and to assert any such defense(s).

**TWELFTH DEFENSE**

Monyer responds to the enumerated paragraphs of Plaintiff's Complaint as follows:

1. Defendant admits that he is a resident of Hutto, Texas. The remaining allegations contained in Paragraph 1 of Plaintiff's Complaint are denied.

2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of Plaintiff's Complaint; accordingly, they are denied.

3. Defendant admits that he was facing eastbound and attempting to turn left from Memorial Drive onto Goldsmith Road at the time of the collision. The remaining allegations contained in Paragraph 3 of Plaintiff's Complaint are denied.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiff's Complaint; accordingly, they are denied.

5. The allegations contained in Paragraph 5 of Plaintiff's Complaint are denied.

6. Paragraph 6 of Plaintiff's Complaint is a legal conclusion to which no response is required. To the extent any response is required, Defendant denies any allegations contained therein.

7. The allegations contained in Paragraph 7 of Plaintiff's Complaint, including subparts (a) – (c) are denied.

8. The allegations contained in Paragraph 8 of Plaintiff's Complaint are denied.

9. The allegations contained in Paragraph 9 of Plaintiff's Complaint are denied.

10. The allegations contained in Paragraph 10 of Plaintiff's Complaint are denied.

11. The allegations contained in Paragraph 11 of Plaintiff's Complaint are denied.

**THIRTEENTH DEFENSE**

To the extent Plaintiff's prayer for relief requires a response, Defendant denies any allegation contained therein.

**FOURTEENTH DEFENSE**

To the extent any allegations in Plaintiff's Complaint have not been specifically answered by Defendant, they are hereby denied.

**WHEREFORE**, having fully answered Plaintiff's Complaint, Defendant Richard Monyer respectfully prays for the following relief from this Honorable Court:

1. That Plaintiff's claims be denied and Plaintiff's Complaint be dismissed with prejudice;
2. That all costs, attorney's fees, and expenses of this action be taxed against Plaintiff;
3. That the case be tried before a jury of twelve (12) persons; and
4. For such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted this 27 April 2023.

/s/ Sean A. Gordon

Sean A. Gordon

Georgia Bar No. 777350

Jenna Schneider

Georgia Bar No. 404596

**THOMPSON HINE LLP**

Two Alliance Center

3560 Lenox Road, Suite 1600

Atlanta, Georgia 30326

Telephone: (404) 407-3623

Facsimile: (404) 541-2905

Sean.Gordon@thompsonhine.com

Jenna.Schneider@thompsonhine.com

*Counsel for Defendant Richard Monyer*

STATE COURT OF  
DEKALB COUNTY, GA.  
4/27/2023 1:35 PM  
E-FILED  
BY: Patricia Nesbitt



**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I have electronically filed the foregoing ***Defendant Richard Monyer's Answer to Plaintiff's Complaint for Damages*** with the Clerk of Court via the Court's electronic filing system, which will automatically send email notification of such filing to all attorneys of record, including:

Stephan D. Apolinsky, Esq.  
Jude L. Graham, Esq.  
**APOLINSKY & ASSOCIATES, LLC**  
One Decatur Town Center  
Suite 200  
150 East Ponce De Leon Avenue  
Decatur, Georgia 30030  
[steve@aa-legal.com](mailto:steve@aa-legal.com)  
[jude@aa-legal.com](mailto:jude@aa-legal.com)

Respectfully submitted this 27 April 2023.

/s/ Sean A. Gordon

Sean A. Gordon

Georgia Bar No. 777350

**IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA**

JEMAINIE JONES,

Plaintiff,

v.

RICHARD MONYER,

Defendants.

**CASE NO. 22A02872**

**NOTICE OF REMOVAL TO FEDERAL COURT**

To: Stephan D. Apolinsky  
Jude L. Graham  
APOLINSKY & ASSOCIATES, LLC  
One Decatur Town Center, Suite 200  
150 East Ponce De Leon Avenue  
Decatur, GA 30030

Please take notice that Defendant Richard Monyer has filed a Notice of Removal under 28 U.S.C. §§ 1332 and 1441 *et seq.* in the United States District Court for the Northern District of Georgia, Atlanta Division. A copy of the Notice of Removal is attached hereto as **Exhibit A**.

Respectfully submitted this 27th day of April, 2023.

*(Signatures on Following Page)*

STATE COURT OF  
DEKALB COUNTY, GA.  
4/27/2023 1:53 PM  
E-FILED  
BY: Patricia Nesbitt

THOMPSON HINE LLP

/s/ Jenna S. Schneider

---

Sean Gordon

Georgia Bar No. 777350

Jenna S. Schneider

Georgia Bar No. 404596

Two Alliance Center

3560 Lenox Road NE, Suite 1600

Atlanta, Georgia 30326-4266

Tel: (404) 541-2900

Fax: (404) 541-2905

[sean.gordon@thompsonhine.com](mailto:sean.gordon@thompsonhine.com)

[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

*Counsel for Defendant Richard Monyer*

STATE COURT OF  
DEKALB COUNTY, GA.  
4/27/2023 1:53 PM  
E-FILED  
BY: Patricia Nesbitt

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this date served a copy of the foregoing *Notice of Removal to Federal Court* by utilizing Odyssey Ga e-file or Peach Court e-file, which will provide copies of same to all counsel of record as follows:

Stephan D. Apolinsky, Esq.  
Jude L. Graham, Esq.  
**APOLINSKY & ASSOCIATES, LLC**  
One Decatur Town Center  
Suite 200  
150 East Ponce De Leon Avenue  
Decatur, Georgia 30030  
[steve@aa-legal.com](mailto:steve@aa-legal.com)  
[jude@aa-legal.com](mailto:jude@aa-legal.com)

*Counsel for Plaintiff*

This 27th day of April, 2023.

THOMPSON HINE LLP

*/s/ Jenna S. Schneider*

---

Jenna S. Schneider  
Georgia Bar No. 404596

*Counsel for Defendant*  
*Richard Monyer*

STATE COURT OF  
DEKALB COUNTY, GA.  
4/27/2023 1:53 PM  
E-FILED  
BY: Patricia Nesbitt

**EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JEMAINIE JONES,

Plaintiff,

v.

RICHARD MONYER,

Defendant.

CIVIL ACTION

FILE NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332 and 1441, Richard Monyer (“Mr. Monyer”) removes the above-captioned lawsuit from the State Court of Dekalb County, Georgia, Civil Action Number 22A02872, in which it is currently pending, to the United States District Court for the Northern District of Georgia, Atlanta Division. As grounds for the removal of this lawsuit, Mr. Monyer states as follows:

1. On August 1, 2022, Plaintiff Jemaine Jones (“Plaintiff”) filed the above-captioned lawsuit in the State Court of Dekalb County, Georgia.

2. On March 28, 2023, Mr. Monyer was served with a copy of the Complaint.

3. As Mr. Monyer was served on March 28, 2023, this Notice of Removal is filed in a timely and proper manner pursuant to 28 U.S.C. § 1446(b), as it is being

filed within thirty (30) days of Mr. Monyer being served with this lawsuit.

4. This lawsuit is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1332 and may be removed to the Court under 28 U.S.C. §§ 1441 and 1446.

5. This lawsuit is a civil action in which, upon Defendant's information and belief, the amount in controversy exceeds \$75,000, exclusive of interest and costs, and is an action between citizens of different states.

6. All pleadings in the Dekalb County State Court action are attached hereto as **Exhibit A**.

7. Upon information and belief, Plaintiff is an individual residing in the State of Georgia. )

8. Mr. Monyer is and was at the time of the filing an individual residing in the State of Texas. (Ex. A, Compl. ¶ 1).

9. Accordingly, there is complete diversity of citizenship between all parties in accordance with 28 U.S.C. § 1332.

10. Upon information and belief, the amount of controversy in this matter exceeds \$75,000. Plaintiff did not request a sum certain in his Complaint related to his claims. However, "[c]omplaints alleging serious, lasting physical injuries are typically removable because it is facially apparent that these claims are worth more

than \$75,000.” *Hickerson v. Enter. Leasing Co. of Ga., LLC*, 818 F. App’x 880, 883 (11th Cir. 2020). Plaintiff’s Complaint alleges that he “has suffered injuries” and he “will incur future medical expenses for treatment of those injuries.” (Ex. A, Compl. ¶ 9). Plaintiff specifically alleges medical damages in excess of \$140,800.00. (Ex. A, Compl. ¶ 8).

11. Considering Plaintiff’s alleged medical expenses, the Court should find that Plaintiff’s Complaint satisfies the amount in controversy requirements of 28 U.S.C. § 1332. *See Roe v. Michelin N. Am., Inc.*, 613 F.3d 1058, 1061-62 (11th Cir. 2010) (courts may use judicial experience and make reasonable extrapolations in assessing amount in controversy).

12. Accordingly, under 28 U.S.C. §1446(C)(2), the amount in controversy exceeds the amount specified in 28 U.S.C. § 1332(a). Therefore, pursuant to 28 U.S.C. §1446(C)(2), the Court should find, by a preponderance of the evidence, that the amount in controversy in this lawsuit exceeds the amount specified in 28 U.S.C. § 1332(b).

13. A true and correct copy of this Notice of Removal is being filed with the Clerk of the State Court of Dekalb County and has been served upon Plaintiff. (*See*, Notice of Removal, attached hereto as **Exhibit B**).

14. The undersigned has read this Notice of Removal and, to the best of her



knowledge, information, and belief, affirms that it is well-grounded in fact and warranted by existing law.

**WHEREFORE**, Defendant Richard Monyer prays that this case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted this 27th day of April, 2023.

THOMPSON HINE LLP

/s/ Jenna S. Schneider

Sean Gordon

Georgia Bar No. 777350

Jenna S. Schneider

Georgia Bar No. 404596

Two Alliance Center

3560 Lenox Road NE, Suite 1600

Atlanta, Georgia 30326-4266

Tel: (404) 541-2900

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[sean.gordon@thompsonhine.com](mailto:sean.gordon@thompsonhine.com)

[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

*Counsel for Defendant Richard Monyer*

STATE COURT OF  
DEKALB COUNTY, GA.

4/27/2023 1:53 PM

E-FILED

BY: Patricia Nesbitt

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this date served a copy of the foregoing *Notice of Removal* with the Clerk of Court via the Court's electronic filing system, which will automatically send email notification of such filing to all attorneys of record, including:

Stephan D. Apolinsky, Esq.  
Jude L. Graham, Esq.  
**APOLINSKY & ASSOCIATES, LLC**  
One Decatur Town Center  
Suite 200  
150 East Ponce De Leon Avenue  
Decatur, Georgia 30030  
[steve@aa-legal.com](mailto:steve@aa-legal.com)  
[jude@aa-legal.com](mailto:jude@aa-legal.com)

This 27th day of April, 2023.

*(Signature on Following Page)*

THOMPSON HINE LLP

/s/ Jenna S. Schneider

Jenna S. Schneider  
Georgia Bar No. 404596

*Counsel for Defendant  
Richard Monyer*

Two Alliance Center  
3560 Lenox Road, Suite 1600  
Atlanta, Georgia 30326  
404.541.2974  
[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

STATE COURT OF  
DEKALB COUNTY, GA.  
4/27/2023 1:53 PM  
E-FILED  
BY: Patricia Nesbitt

**CERTIFICATE OF COMPLIANCE**

I HEREBY CERTIFY that the foregoing complies with the font and point selections approved by the Court in Local Rule 5.1 It is prepared in Times New Roman 14-point font with top margins of not less than one and one-half (1 1/2 ) inches and a left margin of not less than one (1) inch.

This 27th day of April, 2023.

THOMPSON HINE LLP

/s/ Jenna S. Schneider

Jenna S. Schneider  
Georgia Bar No. 404596

*Counsel for Defendant  
Richard Monyer*

Two Alliance Center  
3560 Lenox Road, Suite 1600  
Atlanta, Georgia 30326  
404.541.2974  
[jenna.schneider@thompsonhine.com](mailto:jenna.schneider@thompsonhine.com)

STATE COURT OF  
DEKALB COUNTY, GA.  
4/27/2023 1:53 PM  
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BY: Patricia Nesbitt